

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

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RETURN RECEIPT REQUESTED

Trade Center Management, Inc.	)	File Number EB-02-HL-073
Licensee of AM Station KHRA	)	NAL/Acct. No. 200332860001
Honolulu, Hawaii	)	FRN 0006351688

**NOTICE OF APPARENT LIABILITY FOR FORFEITURE**

**Released:** October 31, 2002

By the Enforcement Bureau, Honolulu Resident Agent Office:

**I. INTRODUCTION**

1. In this Notice of Apparent Liability for Forfeiture ("NAL"), we find that Trade Center Management, Inc., licensee of AM broadcast station KHRA in Honolulu, Hawaii, has apparently willfully and repeatedly violated Section 73.3526(b) of the Federal Communications Commission ("FCC") Rules and Regulations ("Rules"),<sup>1</sup> by failing to maintain a public inspection file at the station main studio. We conclude, pursuant to Section 503(b) of the Communications Act of 1934, as amended ("Act"),<sup>2</sup> that Trade Center Management, Inc., is apparently liable for a forfeiture in the amount of ten thousand dollars (\$10,000).

**II. BACKGROUND**

2. On August 2, 2002, agents of the FCC Honolulu Resident Agent Office inspected the KHRA main studio, located at 320 Ward Ave., Suite 211, Honolulu, Hawaii. There was no public inspection file available at the time of inspection. At the time of the inspection, Mr. Ki-Yeoun Kim, who represented himself as the General Manager of the station, advised that no public inspection file was maintained at the KHRA main studio.

3. On August 12, 2002, a Notice of Violation was issued to Trade Center Management Center, Inc., for failure to comply with Section 73.3526(b) of the Rules. The Notice of Violation required a response within fourteen days of the release date. No response has been received to date.

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<sup>1</sup> 47 C.F.R. 73.3526(b).

<sup>2</sup> 47 U.S.C. § 503(b).

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### III. DISCUSSION

4. Section 503(b) of the Act provides that any person who willfully or repeatedly fails to comply substantially with the terms and conditions of any license, or willfully or repeatedly fails to comply with any of the provisions of the Act or of any rule, regulation or order issued by the Commission thereunder, shall be liable for a forfeiture penalty. The term “willful” as used in Section 503(b) has been interpreted to mean simply that the acts or omissions are committed knowingly.<sup>3</sup> The term “repeated” means the commission or omission of such act more than once or for more than one day.<sup>4</sup>

5. Section 73.3526(b) of the Rules requires that the public inspection file be maintained at the main studio of the station. Based on the evidence before us, we find that Trade Center Management, Inc., willfully and repeatedly violated Section 73.3526(b) of the Rules by failing to maintain the required public inspection file at the KHRA main studio.

6. Pursuant to *The Commission’s Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines (“Forfeiture Policy Statement”)*,<sup>5</sup> the base forfeiture amount for violation of the public file rules is \$10,000. In assessing the monetary forfeiture amount, we must also take into account the statutory factors set forth in Section 503(b)(2)(D) of the Act, which include the nature, circumstances, extent, and gravity of the violation(s), and with respect to the violator, the degree of culpability, and history of prior offenses, ability to pay, and other such matters as justice may require.<sup>6</sup> Applying the *Forfeiture Policy Statement* and the statutory factors to the instant case, a \$10,000 forfeiture is warranted.

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<sup>3</sup> Section 312(f)(1) of the Act, 47 U.S.C. § 312(f)(1), which applies to violations for which forfeitures are assessed under Section 503(b) of the Act, provides that “[t]he term ‘willful’, when used with reference to the commission or omission of any act, means the conscious and deliberate commission or omission of such act, irrespective of any intent to violate any provision of this Act ....” See *Southern California Broadcasting Co.*, 6 FCC Rcd 4387 (1991).

<sup>4</sup> Section 312(f)(2) of the Act, 47 U.S.C. § 312(f)(2), which also applies to violations for which forfeitures are assessed under Section 503(b) of the Act, provides that “[t]he term ‘repeated’, when used with reference to the commission or omission of any act, means the commission or omission of such act more than once or, if such commission or omission is continuous, for more than one day.”

<sup>5</sup> 12 FCC Rcd 17087 (1997), *recon. denied* 15 FCC Rcd 303 (1999).

<sup>6</sup> 47 U.S.C. § 503(b)(2)(D).

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#### IV. ORDERING CLAUSES

7. Accordingly, IT IS ORDERED THAT, pursuant to Section 503(b) of the Communications Act of 1934, as amended, and Sections 0.111, 0.311 and 1.80 of the Commission's Rules, Trade Center Management, Inc., is hereby NOTIFIED of an APPARENT LIABILITY FOR A FORFEITURE in the amount of ten thousand dollars (\$10,000) for failure to maintain the KHRA public inspection file at the main studio, in violation of Section 73.3526(b) of the Rules.<sup>7</sup>

8. IT IS FURTHER ORDERED THAT, pursuant to Section 1.80 of the Commission's Rules, within thirty days of the release date of this NOTICE OF APPARENT LIABILITY, Trade Center Management, Inc. SHALL PAY the full amount of the proposed forfeiture or SHALL FILE a written statement seeking reduction or cancellation of the proposed forfeiture.

9. Payment of the forfeiture may be made by mailing a check or similar instrument, payable to the order of the Federal Communications Commission, to the Forfeiture Collection Section, Finance Branch, Federal Communications Commission, P.O. Box 73482, Chicago, Illinois 60673-7482. The payment must include the FCC Registration Number (FRN) and NAL/Acct. No. referenced in the caption.

10. The response, if any, must be mailed to Federal Communications Commission, Enforcement Bureau, Technical and Public Safety Division, 445 12th Street, S.W., Washington, DC 20554, and must include the NAL/Acct. No. referenced in the caption.

11. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the petitioner submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting practices ("GAAP"); or (3) some other reliable and objective documentation that accurately reflects the petitioner's current financial status. Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation submitted.

12. Requests for payment of the full amount of this Notice of Apparent Liability under an installment plan should be sent to: Chief, Revenue and Receivables Operations Group, 445 12th Street, S.W., Washington, D.C. 20554.<sup>8</sup>

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<sup>7</sup> 47 U.S.C. § 503(b); 47 C.F.R. §§ 0.111, 0.311, 1.80, 73.3526(b).

<sup>8</sup> See 47 C.F.R. § 1.1914

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13. Under the Small Business Paperwork Relief Act of 2002, Pub L. No. 107-198, 116 Stat. 729 (June 28, 2002), the FCC is engaged in a two-year tracking process regarding the size of entities involved in forfeitures. If you qualify as a small entity and if you wish to be treated as a small entity for tracking purposes, please so certify to us within thirty (30) days of this NAL, either in your response to the NAL or in a separate filing to be sent to the Federal Communications Commission, Enforcement Bureau, Technical and Public Safety Division. Your certification should indicate whether you, including your parent entity and its subsidiaries, meet one of the definitions set forth in the list provided by the FCC's Office of Communications Business Opportunities (OCBO) set forth in Attachment A of this Notice of Apparent Liability. This information will be used for tracking purposes only. Your response or failure to respond to this question will have no effect on your rights and responsibilities pursuant to Section 503(b) of the Communications Act. If you have questions regarding any of the information contained in Attachment A, please contact OCBO at (202) 418-0990.

14. IT IS FURTHER ORDERED THAT a copy of this NOTICE OF APPARENT LIABILITY shall be sent by Certified Mail Return Receipt Requested to Trade Center Management, Inc., 101 Enterprise, Suite 330, Aliso Viejo, CA 92656.

FEDERAL COMMUNICATIONS COMMISSION

John R. Raymond  
Honolulu Resident Agent